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3 **UNITED STATES DISTRICT COURT**
4 **NORTHERN DISTRICT OF CALIFORNIA**
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8 **LYNN SLOVIN, SAMUEL KATZ AND JEFFERY**
9 **PRICE, individually and on behalf of all others**
similarly situated,

10 **Plaintiffs,**

11 **v.**

12 **SUNRUN, INC., CLEAN ENERGY EXPERTS,**
13 **LLC, DBA SOLAR AMERICA, AND DOES 1**
THROUGH 5,

14 **Defendants.**

Case No.: 15-CV-5340 YGR

ORDER GRANTING MOTION OF DEFENDANTS
SUNRUN, INC. AND CLEAN ENERGY EXPERTS,
LLC'S TO STRIKE WITH LEAVE TO AMEND

DKT. NO. 36

15 Plaintiffs Lynn Slovin, Samuel Katz, and Jeffery Price (“Plaintiffs”) bring this putative class
16 action against Defendants SunRun, Inc., and Clean Energy Experts, LLC, dba Solar America
17 (“Defendants”) for violation of the federal Telephone Consumer Protection Act (“TCPA”), 47
18 U.S.C. section 227. Plaintiffs filed their Second Amended Complaint on March 25, 2015. (Dkt.
19 No. 35.)

20 Defendants filed their answer to the Second Amended Complaint and, at the same time,
21 filed a Motion to Strike. (Dkt. No. 36.) Defendants seek to strike the class actions here on the
22 grounds that the class alleged is improperly fail-safe and unascertainable, and that it fails the
23 predominance and typicality requirements of Rule 23 on the face of the complaint. Defendants
24 object that the proposed class definitions are flawed because they would require a merits-based
25 determined in order to determine class membership because they are defined as recipients of calls
26 “from or on behalf of Defendants,” yet Plaintiffs have not alleged the entities that may have placed
27 such calls on behalf of Defendants.
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1 Based upon the Court's review of the SAC and the motion, and as discussed with the parties
2 at the case management conference held April 25, 2016, the Court **GRANTS** the Motion to Strike
3 **WITH LEAVE TO AMEND.**

4 Plaintiffs shall file their Third Amended Complaint specifying the third party agents they
5 contend made calls on behalf of Defendants no later than **June 28, 2016**.

6 Accordingly, the Motion to Strike is **GRANTED WITH LEAVE TO AMEND**. The hearing
7 previously set for June 7, 2016, is **VACATED**.

8 This terminates Docket No. 36.

9 **IT IS SO ORDERED.**

10 Date: **April 28, 2016**



YVONNE GONZALEZ ROGERS
UNITED STATES DISTRICT COURT JUDGE